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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO
and COUNTY OF SANTA CLARA,

Plaintiffs,

vs.

U.S. CITIZENSHIP AND IMMIGRATION
SERVICES; DEPARTMENT OF
HOMELAND SECURITY; KEVIN
McALEENEN, Acting Secretary of Homeland
Security; and KENNETH T. CUCCINELLI, in
his official capacity as Acting Director of U.S.
Citizenship and Immigration Services,

Defendants.

Case No. 4:19-cv-4717-PJH

**[PROPOSED] ORDER GRANTING CITY AND
COUNTY OF SAN FRANCISCO AND
COUNTY OF SANTA CLARA'S MOTION FOR
PRELIMINARY INJUNCTION**

On August 28, 2019, Plaintiffs the City and County of San Francisco and the County of Santa Clara (together, the “Counties”) filed a Motion for Preliminary Injunction (“Motion”) to enjoin Defendants from implementing or enforcing the Final Rule of the Department of Homeland Security on “Inadmissibility on Public Charge Grounds,” 84 Fed. Reg. 41292 (“Final Rule”). A hearing on the Motion was held on Wednesday, October 2, 2019 at 9 a.m.

The Court, having considered the Motion and the documents filed therewith, all of the papers on file in this action, and the evidence and arguments presented at the hearing, hereby GRANTS the Counties’ Motion. The Court finds that each of the necessary elements for issuing a preliminary injunction are met: The Counties are likely to prevail on the merits of its claims; absent preliminary injunction, the Counties would be likely to suffer irreparable injury in the form of economic, statutory, and community injury; the balance of equities favors the Counties; and the requested relief is in the public interest. In particular, the Counties are likely to prevail on the merits of their claims that: (1) the Final Rule is contrary to law and thus violates the Administrative Procedures Act (“APA”), 5 U.S.C. § 706(2)(A), because the Final Rule’s definition of “Public Charge” contravenes the term’s plain and longstanding meaning in the Immigration and Nationality Act (“INA”); (2) the Final Rule is contrary to law and thus violates the APA, 5 U.S.C. § 706(2)(A), because the Final Rule undermines the INA’s family-reunification scheme and invades Congress’s policymaking authority; (3) the Final Rule is arbitrary, capricious, and an abuse of discretion and thus violates the APA, 5 U.S.C. § 706(2)(A), because Defendants enacted the Final Rule without adequately considering issues raised by commenters and proffered justifications contrary to the evidence and its predecessor’s and Congress’s conclusions; and (4) the Final Rule is arbitrary, capricious, and an abuse of discretion and thus violates the APA, 5 U.S.C. § 706(2)(A), because the Final Rule’s benefit use threshold, factors, and weighing scheme are unsupported and irrational.

PRELIMINARY INJUNCTION

Now, therefore, it is hereby ORDERED that:

Defendants Kevin McAleenan, in his official capacity as Acting Secretary of U.S. Department of Homeland Security; the U.S. Department of Homeland Security; Kenneth T. Cuccinelli, in his official capacity as Acting Director of U.S. Citizenship and Immigration Services; U.S. Citizenship

1 and Immigration Services; and their officers, agents, servants, employees, and attorneys, and any other
2 persons acting in concert or participation with them, ARE HEREBY RESTRAINED AND
3 ENJOINED from directly or indirectly implementing or enforcing the Final Rule.

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5 IT IS SO ORDERED

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7 Dated: _____

8 HON. PHYLLIS J. HAMILTON
United States Chief District Judge
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